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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

TERRY, Alvin Mark

Serial No.: 10/714,529

Filed: November 14, 2003

Confirmation No.: 2211

Atty. File No.: 41942-05553

For: "CEPSTRAL DOMAIN PULSE
OXIMETRY"

) Group Art Unit: 3768

) Examiner: WINAKUR, Eric Frank

TERMINAL DISCLAIMER

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<p style="text-align: center;">CERTIFICATE OF MAILING</p> <p>I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 ON <u>6-21-06</u>.</p> <p style="text-align: center;">MARSH FISCHMANN & BREYFOGLE LLP</p> <p>BY: <u>[Signature]</u> Lori Lane</p>
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Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

The owner, Datex-Ohmeda, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent No. 6,650,918 as the term of said prior patent is defined in 35 U.S.C. §§154 to 156 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs

with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 USC §§154 to 156 and 173 of the prior patent, as the term of said prior patent is presently shortened by any terminal disclaimer, in the event that said prior patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Enclosed herewith is a check in the amount of \$130.00 in payment of the terminal disclaimer fee as specified under 37 C.F.R. §1.20(d). Please charge any deficiency or credit any excess to Deposit Account No. 50-1419.

The undersigned is an attorney or agent of record.

Date: June 21, 2006

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